

UNITED STATES COURT OF APPEALS

FILED

FOR THE NINTH CIRCUIT

JUL 18 2019

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

REGINALD DION OWENS,

Applicant,

v.

UNITED STATES OF AMERICA,

Respondent.

No. 18-71013

D.C. No. 3:97-cr-02546-CAB-1  
Southern District of California,  
San Diego

ORDER

Before: SCHROEDER, SILVERMAN, and CLIFTON, Circuit Judges.

The application for authorization to file a second or successive 28 U.S.C. § 2255 motion in the district court is denied as unnecessary because the applicant has a section 2255 motion currently pending before the United States District Court for the Southern District of California in case number 3:97-cr-02546-CAB. *See Goodrum v. Busby*, 824 F.3d 1188, 1194-95 (9th Cir. 2016) (an application for authorization to file a second or successive habeas petition should be construed as a motion to amend a pending first habeas petition).

The Clerk shall transfer the proposed section 2255 motion filed in Docket Entry No. 1 to the district court to be processed as a motion to amend the currently pending section 2255 motion. The motion shall be deemed filed in the district court on March 30, 2018, the date on which it was delivered to prison authorities for forwarding to this court. *See Fed. R. App. P. 4(c)(1); Houston v. Lack*, 487

U.S. 266, 270 (1988); *Orona v. United States*, 826 F.3d 1196 (9th Cir. 2016) (AEDPA's statute of limitations period is tolled during pendency of an application).

We express no opinion as to whether leave to amend should be granted. *See Garcia v. United States*, 923 F.3d 1242 (9th Cir. 2019).

The Clerk shall serve this order and the application directly on the chambers of the Honorable Cathy Ann Bencivengo.

Upon transfer of the proposed section 2255 motion, the Clerk shall close this original action.

Any pending motions are denied as moot.

No further filings will be entertained in this case.

**DENIED AS UNNECESSARY; PROPOSED MOTION  
TRANSFERRED to the district court.**